

EXHIBIT F

1
2
3 UNITED STATES DISTRICT COURT

4 SOUTHERN DISTRICT OF NEW YORK
5 -----

6 ANGELO PENA, ROLANDO ROJAS,
7 JOSE DIROCHE, and FRANKLIN SANTANA,
8 individually and on behalf of others
9 similarly situated,

10 Plaintiffs,

11 vs.

12 No. 07 CV 7013

13 SP PAYROLL, INC., NICHOLAS PARKING,
14 CORP., IVY PARKING, CORP., BIENVENIDO,
15 LLC, CASTLE PARKING CORP., SAGE PARKING
16 CORP., and SAM PODOLAK,
17 Defendants.
18 -----

19 DEPOSITION OF ANGELO PENA
20 New York, New York
21 Friday, November 9, 2007
22

23 Reported by:
24 Meredith Stoeckel
25 JOB NO. 14011-A

Page 6

1 A. Pena
2 my clients are here to listen to you.
3 Can you project, please?
4 THE INTERPRETER: No problem,
5 Mr. Faillace.
6 MR. FAILLACE: They have to hear
7 what you're saying.
8 Q. Mr. Pena, if you need a break at any
9 time, you should let us know. This is not a
10 torture test. The only limitation on that is if I
11 have asked you a question, you should answer that
12 question before we take a break.
13 Do you understand what the interpreter
14 is saying to you?
15 A. Yes, sir.
16 Q. Is there any reason as you sit here
17 today that you cannot answer my questions
18 truthfully?
19 A. No.
20 Q. Are you taking any medications today
21 that would prevent you from understanding my
22 questions?
23 A. No, sir.
24 Q. Are you taking any medications today
25 that would prevent you from answering my questions
TSG Reporting - Worldwide 877-702-9580

Page 8

1 A. Pena
2 A. That one I lasted nine months.
3 Q. Nine months before today?
4 A. Yes, sir.
5 Q. Prior to that nine months, where did
6 you work?
7 A. That's who I started working for the
8 first time.
9 Q. Prior to nine months ago, were you
10 employed by the company?
11 A. No.
12 Q. Where did you work?
13 A. That's the first job I had when I came
14 into this country.
15 Q. Do you remember what month you started
16 at Sage Parking?
17 A. October 2003.
18 Q. Have you worked for Sage Parking
19 continuously since October of 2003?
20 A. I worked till 2006. Then I left the
21 company for six months and I returned back.
22 Q. Who did you work for when you left the
23 company?
24 A. I worked with Imperial Parking.
25 Q. What month in 2006 did you leave
TSG Reporting - Worldwide 877-702-9580

Page 7

1 A. Pena
2 truthfully?
3 A. No, sir.
4 Q. Who are you now employed by?
5 A. I am still working at the company.
6 Q. When you say "the company," what
7 company do you mean?
8 A. The name I don't know, but it is for
9 Sam Podolak.
10 Q. What is your job?
11 A. At a parking lot parking the cars,
12 taking care of customers. Sometimes cleaning
13 toilets and maintaining the parking lot cleaning.
14 Q. And where do you currently perform your
15 duties?
16 A. I work at 199th Street and Webster.
17 Q. Is this in the Bronx?
18 A. That's in the Bronx.
19 Q. What is the name of that parking
20 garage?
21 A. On the logo, it says Saget Parking.
22 Q. Do you mean Sage Parking?
23 A. Yes.
24 Q. How long have you worked at this
25 parking garage?
TSG Reporting - Worldwide 877-702-9580

Page 9

1 A. Pena
2 working for the company?
3 A. I don't recall exactly, but it was
4 towards the end of November, December.
5 Q. November of 2006?
6 A. Yes.
7 Q. When did you come back to work for Sage
8 Parking?
9 A. I'm not sure exactly but January 2007,
10 around there.
11 Q. You said you left for about six months;
12 is that correct?
13 A. From six to nine months.
14 Q. If you left in November of 2006, if you
15 came back in January of 2007, that would not be
16 six to nine months.
17 A. I told you I'm not sure whether it was
18 six or nine months, but the payroll checks will
19 verify that.
20 Q. Did you work for the company at any
21 time prior to October 2003?
22 A. No, sir.
23 Q. Other than the six to nine months you
24 left the company, did you leave the company on any
25 other occasions?
TSG Reporting - Worldwide 877-702-9580

Page 10

1 A. Pena
 2 A. No.
 3 Q. Who is your current supervisor at the
 4 garage right now?
 5 A. Mr. Raj.
 6 Q. What hours does Mr. Raj work?
 7 A. He passes by to pick up the reports.
 8 Sometimes he passes by in the morning, sometimes
 9 he passes by at night.
 10 Q. Does Mr. Raj actually work at the
 11 garage, or just pass by the garage to pick up the
 12 reports?
 13 A. He doesn't work in the garage. He just
 14 picks up the reports.
 15 Q. What hours do you work?
 16 A. Twelve hours a day.
 17 Q. When do you start work?
 18 A. I started working from seven a.m. to
 19 seven p.m.
 20 Q. How long have you worked from seven
 21 a.m. to seven p.m.?
 22 A. I worked that shift for about two
 23 years. Sometimes I had to cover vacation or
 24 something like that for another employee.
 25 Covering shifts.

TSG Reporting - Worldwide 877-702-9580

Page 11

1 A. Pena
 2 Q. Isn't it a fact that you are currently
 3 working eight hours per day?
 4 A. Now, yes.
 5 Q. When did you start working eight hours
 6 a day?
 7 A. This year, 2007.
 8 Q. When in 2007?
 9 A. I don't know exactly.
 10 Q. Besides you, does anyone else work at
 11 the garage with you?
 12 A. One other person, yes.
 13 Q. Who is that?
 14 A. I worked with Juan --
 15 MR. FAILLACE: I'm going to object
 16 for vagueness. I think there is a need
 17 for clarification. He's not
 18 understanding the time period you are
 19 asking.
 20 MR. WALKER: Right now.
 21 A. Right now, who I work with?
 22 Q. Yes.
 23 A. Sometimes I work with Pedro Brito, Juan
 24 Lorenzo, Pedro Breton. There are two other
 25 persons, but I don't remember the names.

TSG Reporting - Worldwide 877-702-9580

Page 12

1 A. Pena
 2 Q. How many of these employees that you
 3 just named work during all or part of the shift
 4 that you work?
 5 A. I work with them because I started four
 6 p.m. until twelve. They are the ones that do the
 7 day shifts -- there are other people that relieve
 8 also. That relieve us.
 9 Q. You previously testified you were
 10 working seven a.m. to seven p.m. You have
 11 testified you are working four p.m. to midnight.
 12 Which is it?
 13 MR. FAILLACE: Objection. He was
 14 confused as to time. Objection because
 15 he was confused about time. I already
 16 objected. He wasn't clear about the
 17 time. When he was saying seven to seven
 18 he meant some other --
 19 Q. As you sit here today, what hours are
 20 you working at the garage?
 21 A. Right now in 2007, I am working from
 22 four p.m. to twelve a.m.
 23 Q. Isn't it a fact that you have worked
 24 eight hours a day since March of 2006?
 25 A. I am not sure, no.

TSG Reporting - Worldwide 877-702-9580

Page 13

1 A. Pena
 2 Q. During 2007 when you have been working
 3 from four p.m. to midnight, what other employees
 4 would be at the garage during that time?
 5 A. Jose Suazo.
 6 Q. Anyone else?
 7 A. I worked also with Diroche Colon.
 8 Q. Anyone else?
 9 A. Of that garage, I don't remember any
 10 other names.
 11 Q. Do all of the employees who work at the
 12 garage when you work at the garage park cars?
 13 MR. FAILLACE: Objection. Can you
 14 please specify?
 15 MR. WALKER: When he's working.
 16 A. Repeat the question.
 17 Q. During the time that you're working and
 18 other employees are working at the garage, do
 19 these employees also park cars?
 20 A. Yes, sir.
 21 Q. During any time that you have been
 22 working during 2007, what is the most number of
 23 employees who have been working at the same time
 24 as you?
 25 A. There are six employees. Three at

TSG Reporting - Worldwide 877-702-9580

Page 14

1 A. Pena
 2 night. Three in the day.
 3 Q. You testified that during 2007 you have
 4 been working four p.m. to midnight, correct?
 5 A. Yes, sir.
 6 Q. At seven p.m. on those nights when you
 7 are working, how many other employees are also
 8 working with you?
 9 A. One only.
 10 Q. You mentioned three work during the day
 11 and three work at night.
 12 A. No. There are three different shifts.
 13 Yes, sir.
 14 Q. What times are each of these shifts?
 15 A. There is one from six a.m. to four p.m.
 16 That's where I come in from four to twelve. And
 17 from twelve to ten a.m. another one comes in.
 18 Q. You mentioned that you left the company
 19 for six to nine months to go to Imperial Parking;
 20 is that correct?
 21 A. What happened was they sold one garage
 22 and then left me there with that company.
 23 Q. That was Imperial Parking?
 24 A. Yes.
 25 Q. When you came back to the company, did

TSG Reporting - Worldwide 877-702-9580

Page 15

1 A. Pena
 2 you go to the Sage Parking garage that you work at
 3 now?
 4 A. No.
 5 Q. Where did you come back to work?
 6 A. I went to 155th Street and Saint
 7 Nicholas for a while. They also sent me to
 8 Wooster Parking on Canal Street for about a month
 9 or so only.
 10 Q. Do you know the name of the garage at
 11 155th Street?
 12 A. I don't know it, but it has the same
 13 logo as Sage Park.
 14 Q. And do you know the name of the garage
 15 on Canal Street?
 16 THE INTERPRETER: I asked him to
 17 spell it out, but he doesn't know --
 18 Walster -- I get Walster from him.
 19 Q. Then after the Canal Street garage, did
 20 you come to the Sage Parking garage that you're
 21 currently working at?
 22 A. Yes.
 23 Q. During 2007, what has your hourly rate
 24 of pay been?
 25 A. Minimum wage.

TSG Reporting - Worldwide 877-702-9580

Page 16

1 A. Pena
 2 Q. What is that?
 3 A. Whatever the salary is in 2007 -- 6.75,
 4 6.15.
 5 Q. How often do you get paid?
 6 A. Every week.
 7 Q. Do you get paid by check?
 8 A. Yes.
 9 Q. What day of the week do you receive
 10 your check?
 11 A. Friday.
 12 Q. Is the check for the week before, or is
 13 it for that week?
 14 A. I don't understand the question.
 15 Q. On the day that you receive your
 16 paycheck, who gives you the paycheck?
 17 A. The man that goes to get the reports,
 18 he leaves it right there in the office.
 19 Q. You testified you are now working eight
 20 hours per day during 2007; is that correct?
 21 A. Yes, sir.
 22 Q. How many days per week do you work?
 23 A. Right now?
 24 Q. Yes.
 25 A. Six days.

TSG Reporting - Worldwide 877-702-9580

Page 17

1 A. Pena
 2 Q. Do you work eight hours per day on each
 3 of the six days?
 4 A. Now?
 5 Q. Yes.
 6 A. Yes, sir.
 7 Q. How long during 2007 have you worked
 8 six days per week?
 9 A. Till now.
 10 Q. When did you first start working six
 11 days per week?
 12 A. When I started working in 2003.
 13 Q. Have you ever worked five days per
 14 week?
 15 A. Five. Even up to seven days per week.
 16 Q. For what period of time did you work
 17 five days per week?
 18 A. I don't remember.
 19 Q. Have you ever worked five days per week
 20 during 2007?
 21 A. Yes.
 22 Q. When, during 2007, did you work five
 23 days per week?
 24 A. I'm not sure because when the
 25 supervisor needs me to work additional time, he

TSG Reporting - Worldwide 877-702-9580

Page 26

1 A. Pena
2 the majority of all their garages.
3 **Q. At the time that you left the company,**
4 **which garage were you working at?**
5 MR. FAILLACE: Objection. He did
6 not say he left the company. The company
7 left him.
8 A. That's what I'm trying to say. They
9 left me. With the other company from -- at a
10 garage that they sold. At 144th. I don't
11 remember the name too well. It was a building
12 that had their own parking. I worked there alone.
13 **Q. You were there for six to nine months?**
14 A. I worked there the whole year until
15 they sold it.
16 MR. FAILLACE: He doesn't
17 understand your question.
18 **Q. You worked at Imperial for six to nine**
19 **months?**
20 A. Yes, sir.
21 **Q. Is it a fact that you were given the**
22 **choice to stay with the company or go with**
23 **Imperial?**
24 A. No, sir.
25 **Q. Do you understand what overtime means?**
TSG Reporting - Worldwide 877-702-9580

Page 27

1 A. Pena
2 A. Yes, sir.
3 **Q. What does overtime mean?**
4 A. It is hours that I work or one works
5 according to state laws over 40. Regular hours
6 are eight hours. I worked 12, 13 or 14 sometimes.
7 **Q. During 2007, you testified that you did**
8 **not work 12 hours; is that correct?**
9 A. Yes, sir.
10 **Q. So you worked eight hours per day**
11 **during 2007; isn't that correct?**
12 A. Yes, sir.
13 **Q. During the period of time during 2007**
14 **that you were working eight hours per day, how**
15 **many hours did you work during a week?**
16 A. In 2007?
17 **Q. 2007.**
18 A. Eight hours a day, I worked six days a
19 week. So that's 46 -- 48 -- 48.
20 **Q. Do you have an understanding of how**
21 **much you are supposed to be paid for the overtime**
22 **hours over 40 hours?**
23 A. No.
24 **Q. Have you ever heard the term "time and**
25 **a half"?**
TSG Reporting - Worldwide 877-702-9580

Page 28

1 A. Pena
2 A. No, they haven't told me that.
3 **Q. When you receive your paycheck, does**
4 **your paycheck list the number of hours that you**
5 **work?**
6 A. Yes, sir.
7 **Q. Does it list your rate of pay?**
8 A. Yes, sir.
9 **Q. Have you ever seen the word "overtime"**
10 **on your check?**
11 A. I have seen it, but I don't know what
12 it means.
13 **Q. Do you know if you're paid more for the**
14 **overtime hours that you work?**
15 A. Can you repeat the question?
16 **Q. Sure. You previously testified that**
17 **you receive the minimum wage as your hourly rate.**
18 A. Yes, sir.
19 **Q. Do you know if you receive more than**
20 **the minimum wage for your overtime hours?**
21 A. Yes, sir.
22 **Q. How much do you receive for your**
23 **overtime hours?**
24 A. Depends on how many I work.
25 **Q. Let's say you work eight overtime**
TSG Reporting - Worldwide 877-702-9580

Page 29

1 A. Pena
2 hours.
3 MR. FAILLACE: Objection.
4 **Q. How much would you be paid?**
5 MR. FAILLACE: Objection. You're
6 asking him to do mathematical
7 calculations. He's no mathematician.
8 **Q. Do you know how much you get paid for**
9 **eight overtime hours?**
10 A. No, I don't know.
11 **Q. Do you know if your hourly rate of pay**
12 **is greater than the minimum wage for overtime**
13 **hours?**
14 MR. FAILLACE: Objection. He
15 already answered.
16 MR. WALKER: I want to make sure.
17 It's not clear to me.
18 **Q. Do you know if your hourly rate of pay**
19 **is greater for overtime hours than for your**
20 **regular hours?**
21 A. I don't understand the question.
22 **Q. You testified that you're paid the**
23 **minimum rate, the minimum wage, for your regular**
24 **hours.**
25 A. Yes, sir.
TSG Reporting - Worldwide 877-702-9580

Page 30

1 A. Pena
2 **Q. You testified that you were paid more**
3 **for overtime hours; is that correct?**
4 A. Yes, sir.
5 **Q. I'm trying to find out how much more**
6 **you were paid for your overtime hours than your**
7 **regular hours. Are you paid more per hour for**
8 **your overtime hours than your regular hours?**
9 A. Of course.
10 **Q. How much more are you paid for your**
11 **overtime hours per hour than your regular hours?**
12 A. I don't know exactly.
13 **Q. Is it more than \$9 per hour?**
14 A. No.
15 **Q. As you sit here today, you do not know**
16 **the amount that you are paid for overtime hours?**
17 MR. FAILLACE: Objection. You're
18 not giving him a time frame.
19 MR. WALKER: 2007.
20 MR. FAILLACE: Make it clear to
21 him.
22 A. 2007, they paid 6.75.
23 **Q. Do you know how much more they paid per**
24 **hour for overtime hours in 2007?**
25 A. Like nine -- nine something. I don't
TSG Reporting - Worldwide 877-702-9580

Page 32

1 A. Pena
2 the minimum wage, for your regular hours?
3 A. Yes, sir.
4 **Q. And you're paid a higher rate for your**
5 **overtime hours after 40 hours a week?**
6 A. That's the overtime hours?
7 **Q. Yes.**
8 A. Yes. They pay more for the overtime.
9 **Q. And that has occurred all throughout**
10 **2007; is that correct?**
11 A. Yes, sir.
12 **Q. Prior to 2007, was there always a**
13 **higher rate for hours over 40?**
14 A. Yes, sir.
15 **Q. Since October of 2003, have you always**
16 **been paid by check by the company?**
17 A. The first 15 days, no. But then after
18 that, yes, by check.
19 **Q. Have you ever received any cash**
20 **payments from anyone at the company?**
21 A. The first -- like I told you, the first
22 15 days they gave me cash.
23 **Q. So that was back in October 2003, they**
24 **gave you cash?**
25 A. Yes, sir.
TSG Reporting - Worldwide 877-702-9580

Page 31

1 A. Pena
2 know. Nine something. Now in 2007.
3 **Q. Do you know how much you were paid for**
4 **overtime hours in 2006?**
5 A. I don't know. I started about 5.15.
6 And then they raised it according to what the
7 state said.
8 **Q. During the entire time that you have**
9 **been employed by the company, have you received**
10 **more for overtime hours than for regular hours?**
11 A. No.
12 **Q. During what period of time did you not**
13 **receive more for overtime hours?**
14 A. In all of them.
15 **Q. Other than 2007?**
16 A. I'm still working -- I'm working six
17 days a week, eight hours a day, 48 hours. And
18 they still put 40 hours at one rate and eight
19 hours at another rate. They pay me more regular
20 time than overtime.
21 **Q. So on your paycheck, there is 40 hours**
22 **at one rate; is that correct?**
23 A. Can you specify a little more the
24 question? Can you break it down?
25 **Q. Is it a fact that you're paid one rate,**
TSG Reporting - Worldwide 877-702-9580

Page 33

1 A. Pena
2 **Q. Since those first 15 days, have you**
3 **received any cash from the company?**
4 A. No.
5 **Q. How much cash did you receive during**
6 **the first 15 days?**
7 A. The first five or six days that I
8 worked, they paid me about \$260.
9 **Q. What about after that?**
10 A. After that, they paid me by check.
11 **Q. Did you declare that cash on your**
12 **income tax?**
13 A. No, sir. I didn't know I had to.
14 **Q. So after the first 15 days, you have**
15 **only been paid by check and you have not received**
16 **any cash; is that correct?**
17 A. A couple of times, I received 10 or \$20
18 that they gave me.
19 **Q. A couple of times?**
20 A. A couple of times.
21 **Q. Does that mean two times?**
22 A. It was 2003. 2006. It was around 2006
23 that they gave me cash.
24 **Q. In 2006?**
25 A. Yes.
TSG Reporting - Worldwide 877-702-9580

EXHIBIT G

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 -----

5 ANGELO PENA, ROLANDO ROJAS,
6 JOSE DIROCHE, and FRANKLIN SANTANA,
7 individually and on behalf of others
8 similarly situated

9 Plaintiffs,

10 vs. No. 07 CV 7013

11 SP PAYROLL, INC., NICHOLAS PARKING, CORP.,
12 IVY PARKING, CORP., BIENVENIDO, LLC,
13 CASTLE PARKING CORP., SAGE PARKING CORP.,
14 and SAM PODOLAK,
15 Defendants.
16 -----

17 DEPOSITION OF ROLANDO ROJAS
18 New York, New York
19 Friday, November 9, 2007
20
21
22

23 Reported by:
24 Meredith Stoeckel
25 JOB NO. 14011-B

Page 10

1 R. Rojas

2 A. Yes. May 2003 until May 2006.

3 Q. Did you work at any other garage for
4 the company from May of 2003 until May of 2006?5 A. They would send me sometimes to cover a
6 day off of another employee at 145 and Saint
7 Nicholas Avenue. Just to cover a day off of
8 somebody or something like that.9 Q. From May of 2003 until May of 2006, did
10 you ever visit the Dominican Republic?11 A. In May 2005, I went on vacation for one
12 month.13 Q. Between May of 2003 and May of 2006,
14 did you go on any other vacations other than the
15 one in May of 2005?

16 A. After 2005, no.

17 Q. Prior to 2005, did you go on any
18 vacations while you were employed by the company?

19 A. No, sir.

20 Q. During the vacation that you took in
21 May of 2005, did you receive any pay for time not
22 worked by the company?

23 A. No, sir.

24 Q. During your employment with the
25 company, did you ever take any sick days?

TSG Reporting - Worldwide 877-702-9580

Page 11

1 R. Rojas

2 A. No, sir.

3 Q. Did you ever receive any sick pay?

4 A. No, sir.

5 Q. At the time that you began employment
6 with the company in May of 2003, what were your
7 hours of work?

8 A. Seven p.m. to seven a.m.

9 Q. Did you punch a time clock?

10 A. Yes, punched the clock.

11 Q. Did you punch the time clock when you
12 started work?

13 A. Yes, sir.

14 Q. Did you punch the time clock when you
15 ended work?

16 A. Yes, sir.

17 Q. Did you ever have anyone else punch
18 your time card?

19 A. No, sir.

20 Q. Were you paid for all of the hours that
21 were recorded on your time card?22 A. They pay me the minimum. And overtime
23 was paid but not completely.24 Q. In what respect was the overtime not
25 paid?

TSG Reporting - Worldwide 877-702-9580

Page 12

1 R. Rojas

2 A. I worked 12 hours. They paid the 40
3 hours at the minimum. And the others they did not
4 pay completely.5 Q. I want to understand, Mr. Rojas. The
6 company paid you for the first 40 hours at the
7 minimum wage; is that correct?

8 A. Yes, sir.

9 Q. And you were paid for all 40 of those
10 hours; is that correct?

11 A. Forty hours they paid at the minimum.

12 Q. And for hours after 40 hours in a work
13 week, what were you paid?14 A. They pay a little something at time and
15 a half, but they wouldn't pay completely.16 Q. When you say they would pay a little
17 something at time and a half, how many hours would
18 they pay time and a half?19 A. It could have been 10 or 15, depending.
20 More or less.21 Q. Did you receive any pay for hours that
22 were not paid at time and a half after 40?

23 A. Can you rephrase that?

24 Q. For the hours that you worked after 40
25 that you did not receive time and a half, were you

TSG Reporting - Worldwide 877-702-9580

Page 13

1 R. Rojas

2 paid any pay at all?

3 A. No, sir.

4 Q. Did you ever ask anyone at the company
5 why they were not paying you?6 A. I would go to the supervisor and ask
7 him to pay us for the five hours of lunch. And he
8 would simply say get out of here.9 Q. Are you saying that you were not
10 paid -- that the only hours you were not paid for
11 were the five hours of lunch?12 A. The lunch hour, the five-hours lunch,
13 and the hour that was supposed to be paid by law
14 after one works 10 hours.15 Q. Other than the five hours of lunch and
16 the one hour pay for working over 10 hours, are
17 you claiming that you were not paid for any other
18 time?19 A. I am alleging they didn't pay the five
20 hours lunch and the hour after the 10 hours. What
21 are you saying? Repeat it to me, please.22 Q. Other than the five hours of lunch, and
23 the one hour pay after 10 hours, are you saying
24 that you were paid for all other hours?

25 A. They would pay me, but not completely.

TSG Reporting - Worldwide 877-702-9580

Page 14

1 R. Rojas

2 Q. I am trying to understand what hours
3 they did not pay for. So far I understand your
4 testimony is you were not paid for five hours of
5 lunch per week. And I understand that you say you
6 were not paid for the one hour for working after
7 10. Is there anything else besides those that you
8 were not paid for?

9 A. No, sir.

10 Q. Are you paid by a paycheck from a
11 company?

12 A. Check. Yes, sir.

13 Q. Have you been paid by a paycheck since
14 2003 when you started work?

15 A. Yes, sir.

16 Q. Does the stub attached to the paycheck
17 have certain information about the hours you
18 worked?

19 A. Yes, sir.

20 Q. And did it have information about your
21 hourly rate of pay?

22 A. Yes, the minimum. That's what they
23 pay.

24 Q. Did it have information on there about
25 the hours you were paid at an overtime rate?

TSG Reporting - Worldwide 877-702-9580

Page 15

1 R. Rojas

2 A. Yes.

3 Q. Did you also receive any payments in
4 cash from the company?

5 A. No, sir.

6 Q. Did you ever read the complaint in this
7 case?

8 A. No, sir.

9 Q. The complaint in the action in
10 paragraph 11 states the following. It says,
11 quote, In addition to his weekly wages paid by
12 check, plaintiff Rojas was given approximately \$20
13 to \$70 a week in cash.

14 THE INTERPRETER: Would you repeat
15 it again. He didn't understand.

16 Q. I'm going to read to you a sentence
17 that's in the complaint.

18 A. Yes, sir.

19 Q. Then I'm going to ask you whether that
20 is correct or incorrect. "In addition to his
21 weekly wages paid by check, plaintiff Rojas was
22 given approximately \$20 to \$70 a week in cash."

23 A. No. 15 to \$20 a week in cash.

24 Q. When I asked you before, you said you
25 didn't receive any cash?

TSG Reporting - Worldwide 877-702-9580

Page 16

1 R. Rojas

2 A. Well, you didn't refer to -- I thought
3 you meant if the cash was together with the check.

4 Q. Who gave you the cash?

5 A. The supervisor could take the envelope
6 and leave it in the office. And then we would
7 receive our check. The envelope.

8 Q. How often did you receive cash?

9 A. Weekly.

10 Q. Did anyone tell you what this cash was
11 for?

12 A. No, sir.

13 Q. Did you ever ask anyone what this cash
14 was for?

15 A. Never.

16 Q. Did anyone ever tell you this was pay
17 for your lunch hour?

18 A. No, sir.

19 Q. Did there ever come a time when the
20 company began to pay you for your lunch hour?

21 A. No, sir.

22 Q. Did you report the cash you received
23 from the company on your tax returns?

24 A. No, sir.

25 Q. When you worked at the garage, was your

TSG Reporting - Worldwide 877-702-9580

Page 17

1 R. Rojas

2 job to park cars?

3 A. Receive them, check them in, park them.
4 Turn them -- give them back to the people.
5 Cleaning. Everything.

6 Q. Did you ever receive tips from
7 customers?

8 A. Sometimes they gave something.
9 Something.

10 Q. Did you ever give those tips to your
11 supervisor?

12 A. No, sir.

13 Q. Did you ever tell your supervisor how
14 much you received in tips?

15 A. No, sir.

16 Q. Did your supervisor ever ask you to
17 give him those tips?

18 A. No, sir.

19 Q. Did you ever share any tips you
20 received with any other employees at the garage?

21 A. Yes, sir.

22 Q. Who do you remember giving tips to?

23 A. I worked with Miguel Alcantara, a man
24 by the name of Jose. I forget the other names.

25 Q. Approximately how much did you receive

TSG Reporting - Worldwide 877-702-9580

Page 22

1 R. Rojas
 2 Q. So it's your testimony that for the
 3 entire period of time that you were working at the
 4 garage, you never took even one minute of break
 5 from working?
 6 A. Out of the parking garage -- I never
 7 went out, no.
 8 Q. Did you ever take a break in the
 9 parking garage?
 10 A. No. I was working.
 11 Q. You were working every minute while you
 12 were on shift at the parking garage?
 13 A. Yes, sir.
 14 Q. From the period of May 2003 until
 15 January of 2007, were you employed by any other
 16 company other than working at the garage?
 17 A. No, sir.
 18 Q. Did you receive any income from any
 19 source other than from working at the garage?
 20 A. No, sir.
 21 Q. Were you ever paid for any time by the
 22 company for periods of time when you were not
 23 working?
 24 MR. FAILLACE: Objection. Already
 25 asked. Go ahead.

TSG Reporting - Worldwide 877-702-9580

Page 24

1 R. Rojas
 2 A. I started at ten and come out at eight.
 3 Q. Ten a.m.?
 4 A. Yes, sir. Until eight p.m.
 5 Q. When you worked ten a.m. to eight p.m.,
 6 did you punch your time card in at ten a.m. when
 7 you started?
 8 A. Yes, sir.
 9 Q. Did you punch out at eight p.m. when
 10 you ended work?
 11 A. Yes, sir.
 12 Q. When you worked four p.m. to midnight,
 13 did you punch in at four p.m.?
 14 A. Yes, sir.
 15 Q. When you ended work at midnight, did
 16 you punch out then?
 17 A. Yes, sir.
 18 Q. During this period of time beginning in
 19 October of 2006, were you paid time and a half for
 20 hours over 40?
 21 A. If I worked it, yes, sir. Yes.
 22 Q. For the period prior to October 2006,
 23 were you paid time and a half for the hours you
 24 worked over 40?
 25 A. They paid, yes, sir.

TSG Reporting - Worldwide 877-702-9580

Page 23

1 R. Rojas
 2 THE INTERPRETER: Can you repeat
 3 that?
 4 Q. Did you ever receive any pay for the
 5 company for hours that you did not actually work?
 6 A. No, sir.
 7 (Recess taken from 1:26 p.m. to
 8 1:34 p.m.)
 9 Q. Did there come a time when you stopped
 10 working 12 hours per day?
 11 A. I stopped working 12 hours a day when I
 12 was at 199 and Webster. I was working 10 hours
 13 then. Ten and eight, but more ten.
 14 Q. When did you stop working 12 hours per
 15 day?
 16 A. Twelve hours a day -- when I started in
 17 October 2006 until 2007.
 18 Q. When you worked eight hours per day,
 19 what time did you start and what time did you end
 20 work?
 21 A. I worked from four p.m. until twelve
 22 midnight.
 23 Q. During the time that you worked ten
 24 hours per day, what time did you start work and
 25 what time did you end work?

TSG Reporting - Worldwide 877-702-9580

Page 25

1 R. Rojas
 2 Q. When you first started work with the
 3 company in October of 2003, who was your first
 4 supervisor?
 5 A. Raj.
 6 Q. During the time you were employed by
 7 the company, did you have any supervisor other
 8 than Raj?
 9 A. No, sir.
 10 Q. Did Raj actually work at the garage
 11 parking cars and doing the other work that you
 12 did?
 13 A. No, sir.
 14 Q. How often did Raj come to the garage
 15 when you were working there?
 16 A. He would go daily in the morning hours.
 17 Q. How long did he stay at the garage?
 18 A. He wouldn't last too long there. An
 19 hour, half hour.
 20 Q. Do you know if Raj ever saw you take a
 21 break and leave the premises of the garage?
 22 A. No, sir.
 23 Q. Did you ever pay any other employee to
 24 work your shift while you were not there?
 25 A. No, sir.

TSG Reporting - Worldwide 877-702-9580

EXHIBIT H

1
2
3 UNITED STATES DISTRICT COURT

4 SOUTHERN DISTRICT OF NEW YORK

5 -----
6 ANGELO PENA, ROLANDO ROJAS, JOSE DIRECHO,
7 and FRANKLIN SANTANA, individually and
8 as behalf of others similarly situated,

9 Plaintiffs,

10 vs. No. 07 CV 7013

11 SP PAYROLL, INC., NICHOLAS PARKING CORP.,
12 IVY PARKING CORP., BIENVENIDO, LLC,
13 CASTLE PARKING CORP., SAGE PARKING CORP.,
14 and SAM PODOLAK,
15 Defendants.
16 -----

17 DEPOSITION OF JOSE RAMON COLON DIROCHE
18 New York, New York
19 Monday, November 12, 2007
20
21
22

23 Reported by:
24 Meredith Stoeckel
25 JOB NO. 14012-A

Page 6

1 J. Diroche
 2 A. Yes.
 3 Q. Do you understand that you are to give
 4 truthful answers to my questions?
 5 A. Yes.
 6 Q. Is there any reason today that you
 7 could not give truthful answers to my questions?
 8 A. No.
 9 Q. Are you taking any medication that
 10 would interfere with your ability to understand my
 11 questions?
 12 A. No.
 13 Q. Are you taking any medication that
 14 would interfere with your ability to give truthful
 15 answers?
 16 A. No.
 17 Q. Who are you employed by now?
 18 A. I'm a taxi driver right now.
 19 Q. Was there a time when you worked for
 20 the defendants as a parking attendant?
 21 A. Yes.
 22 Q. When was the last date on which you
 23 worked as a parking attendant for the defendants?
 24 A. I don't remember exactly, but it has
 25 been a month and three weeks. Around there.

TSG Reporting - Worldwide 877-702-9580

Page 8

1 J. Diroche
 2 there I went to Jerome. 169 and Jerome.
 3 Q. How long did you work at 199 and
 4 Webster?
 5 A. I worked there for about four days.
 6 Then they put me on -- then they put me to work at
 7 169 and Jerome.
 8 Q. How long did you work at 169 Jerome?
 9 A. I have worked there the whole time.
 10 Q. Did you work at any other garages
 11 besides 199 Webster or 169 Jerome?
 12 A. Yes.
 13 Q. What other garages did you work at?
 14 A. 187 and Valentine, and Bienvenido which
 15 is next to 169 at 1277. And 155 and Saint
 16 Nicholas.
 17 Q. Where did you work most of the time?
 18 A. The most part of the time -- 169 and
 19 Jerome.
 20 Q. When you first started work in 2001 who
 21 was your supervisor?
 22 A. At that time the supervisor was
 23 Cardozo.
 24 Q. Is Cardozo still employed by
 25 defendants?

TSG Reporting - Worldwide 877-702-9580

Page 7

1 J. Diroche
 2 Q. Did you resign from your employment or
 3 were you terminated?
 4 A. I resigned.
 5 Q. What was the reason that you resigned?
 6 A. To start cabbng. I wasn't happy with
 7 what was going on.
 8 Q. What were you not happy about?
 9 A. I was earning little.
 10 Q. Did you tell anyone that the reason you
 11 quit your job was because you were not getting
 12 enough hours?
 13 A. I let Raj know that I was leaving the
 14 job because of that, yes. Yes. They took away
 15 some hours.
 16 Q. Just prior to when you quit your job
 17 how many hours per week were you working?
 18 A. Fifty-eight.
 19 Q. When did you first start work with the
 20 defendants?
 21 A. I don't remember the date, but it was
 22 at the beginning of 2001.
 23 Q. When you first began working for
 24 defendants in 2001 what garage did you work at?
 25 A. I started at 199 and Webster. And from

TSG Reporting - Worldwide 877-702-9580

Page 9

1 J. Diroche
 2 A. No.
 3 Q. When did he leave working for
 4 defendants?
 5 A. Around the time when I started working
 6 with them. He didn't last too long after that.
 7 Q. Who was your supervisor after Cardozo?
 8 A. A man named Pablo.
 9 Q. How long was Pablo your supervisor?
 10 A. Couple of months.
 11 Q. Who was your supervisor after Pablo?
 12 A. Raj.
 13 Q. Was Raj your supervisor the entire time
 14 after Pablo?
 15 A. He has been the one always. Raj and
 16 another Pablo that works for Sam.
 17 Q. When you first started working for
 18 defendants in 2001 how many hours per week did you
 19 work?
 20 A. I have always worked six days, 60
 21 hours. Sometimes they would take away days.
 22 Sometimes they would give my days more. It
 23 depends. But normally it was six or seven days we
 24 worked. In case somebody was missing, they needed
 25 someone.

TSG Reporting - Worldwide 877-702-9580

Page 10

1 J. Diroche
 2 Q. Was your regular workweek six days?
 3 A. Yes.
 4 Q. How many hours per day did you work?
 5 A. Twelve hours. From seven to seven.
 6 Q. Did there come a time when your hours
 7 were reduced to 48 hours?
 8 A. Yes.
 9 Q. When was that?
 10 A. 2006.
 11 Q. When in 2006?
 12 A. I don't remember the date.
 13 Q. Do you remember whether it was early in
 14 the year of 2006?
 15 A. Yes. Around there.
 16 Q. Could it have been February of 2006?
 17 A. More or less. Around there.
 18 Q. When your hours were reduced to 48
 19 hours in February of 2006 how many days per week
 20 did you work?
 21 A. Five.
 22 Q. Is that five days per week?
 23 A. Yes.
 24 Q. How many hours per day did you work on
 25 each of the five days?

TSG Reporting - Worldwide 877-702-9580

Page 11

1 J. Diroche
 2 A. Four days at ten hours a day. And one
 3 day at eight.
 4 Q. Were you paid by check?
 5 A. Yes.
 6 Q. Were you paid by check for the entire
 7 time that you worked for defendants?
 8 A. Lunch hour was always missing.
 9 Q. Were you always paid by check?
 10 A. Yes. Check and cash.
 11 Q. How much were you paid in cash?
 12 A. Fifteen, \$20.
 13 Q. Who gave you the cash?
 14 A. The check was inside the envelope.
 15 The supervisor would give it to me -- Raj.
 16 Q. In the complaint in paragraph 12 it
 17 states that you were paid 20 to \$70 a week in
 18 cash. Is that correct or incorrect?
 19 A. That's incorrect.
 20 Q. Did anyone tell you why you were
 21 receiving this cash?
 22 A. No one told me.
 23 Q. Did you ever ask anyone why you were
 24 receiving this cash?
 25 A. I did not ask. I figured it was for

TSG Reporting - Worldwide 877-702-9580

Page 12

1 J. Diroche
 2 the extra hours I worked.
 3 Q. Did there come a time when you stopped
 4 receiving cash?
 5 A. In 2006 when I was working.
 6 Q. Did anyone tell you why you stopped
 7 receiving cash?
 8 A. No.
 9 Q. Did you ever ask anyone why you stopped
 10 receiving cash?
 11 A. No.
 12 Q. Did you stop receiving cash at the same
 13 time that your hours were reduced in February of
 14 2006?
 15 A. No. Before that.
 16 Q. How long before that?
 17 A. I don't remember.
 18 Q. Isn't it a fact that you stopped
 19 receiving the cash because the company started
 20 paying for your lunch hour?
 21 A. No.
 22 Q. Did your paycheck have a stub that
 23 listed the number of hours that you worked?
 24 A. Yes.
 25 Q. Did your paycheck list what your hourly

TSG Reporting - Worldwide 877-702-9580

Page 13

1 J. Diroche
 2 rate of pay was?
 3 A. They put it on the check, but not
 4 completely.
 5 Q. I was asking whether it contained your
 6 hourly rate of pay?
 7 A. Yes.
 8 Q. And did it list overtime hours on this
 9 stub?
 10 A. Yes.
 11 Q. And do you understand what time and a
 12 half is?
 13 A. No.
 14 Q. Do you understand that if you work over
 15 40 hours in a week you must be paid time and a
 16 half of your hourly rate?
 17 A. If I would have known that I would have
 18 told them -- claimed it.
 19 Q. Do you know if you received a higher
 20 rate of pay for hours you worked over 40?
 21 A. No.
 22 Q. In your lawsuit against the defendants
 23 what hours are you claiming defendants did not pay
 24 you?
 25 A. The lunch hour.

TSG Reporting - Worldwide 877-702-9580

Page 18

1 J. Diroche
 2 A. I worked 12 hours. They would pay me
 3 six.
 4 Q. Okay. During your regular workweek
 5 however they paid you for all of your hours other
 6 than your lunch hour; is that correct?
 7 A. Yes.
 8 Q. Have you totaled up the number of hours
 9 that you believe that you have not been paid for
 10 by the defendants?
 11 A. No.
 12 Q. Just before you resigned your
 13 employment what was your hourly rate of pay?
 14 A. 3.16. Per hour 7.15.
 15 Q. On your paycheck was any rate of pay
 16 listed in excess of \$10 per hour? An hourly rate.
 17 A. From 2006 on.
 18 Q. When you say 2006 do you mean February
 19 2006?
 20 A. Yes.
 21 Q. Between the time you started work for
 22 defendants in 2001, and the time that you resigned
 23 your employment, did you have any leave of
 24 absence?
 25 A. Yes.

TSG Reporting - Worldwide 877-702-9580

Page 19

1 J. Diroche
 2 Q. When was that?
 3 A. June to July. One month.
 4 Q. What year?
 5 A. Now. Before.
 6 Q. 2007?
 7 A. Yes, 2007.
 8 Q. Where were you during this leave of
 9 absence?
 10 A. Dominican Republic. Santo Domingo.
 11 Q. You are not claiming are you that the
 12 defendants owe you any money for when you were in
 13 Santo Domingo?
 14 A. No.
 15 Q. You didn't perform any work for the
 16 defendants while you were in Santo Domingo did
 17 you?
 18 A. No.
 19 Q. Other than this leave of absence was
 20 there any period of time from 2001 until your
 21 resignation that you were not working for
 22 defendants?
 23 A. Yes.
 24 Q. When was that?
 25 A. I always go to Santo Domingo during the

TSG Reporting - Worldwide 877-702-9580

Page 20

1 J. Diroche
 2 year. Once a year. Or two-times a year.
 3 Q. Do you have a passport from the
 4 Dominican Republic?
 5 A. Yes.
 6 Q. Do you have a passport from the United
 7 States?
 8 A. No.
 9 RQ MR. WALKER: We request production of
 10 his Dominican Republic passport.
 11 MR. FAILLACE: Take it under
 12 advisement.
 13 MR. WALKER: The reason we are
 14 requesting production is we have a right
 15 to confirm based upon the entry and exit
 16 stamps the times when he was out of the
 17 country.
 18 Q. In 2001 after you began working for
 19 defendants did you go to the Dominican Republic?
 20 A. Yes.
 21 Q. Do you recall when in 2001 that was?
 22 A. No.
 23 Q. Do you know how long you stayed in the
 24 Dominican Republic?
 25 A. I don't remember.

TSG Reporting - Worldwide 877-702-9580

Page 21

1 J. Diroche
 2 Q. When you go to the Dominican Republic
 3 is there generally a length of time that you stay
 4 there?
 5 A. Because my family lives there.
 6 Q. I understand. How long do you
 7 generally stay in the Dominican Republic?
 8 A. Lately been staying a month, but before
 9 I used to go for two months, three months.
 10 Q. In 2001 do you believe that you were in
 11 the Dominican Republic for two to three months?
 12 A. I don't know. You can confirm it on
 13 the passport. With the stamps.
 14 Q. How long is a passport for the
 15 Dominican Republic valid for?
 16 A. Maybe eight, eight, four.
 17 Q. Since 2001 have you had to renew your
 18 passport for the Dominican Republic?
 19 A. Yes.
 20 Q. When did you renew it?
 21 A. I think it was 2004, 2005. Around
 22 there.
 23 Q. Do you still have the old passport?
 24 A. I think it was stapled onto the other
 25 one. I don't know if it is still there.

TSG Reporting - Worldwide 877-702-9580

Page 34

1 **J. Diroche**
2 **time for which you did not work?**
3 A. No.
4 **Q. Did you ever receive holiday pay?**
5 A. No, never.
6 **Q. Have you discussed your lawsuit with**
7 **anyone besides your lawyer?**
8 A. No.
9 **Q. Have you had any discussions with the**
10 **other plaintiffs concerning this lawsuit?**
11 A. No.
12 MR. WALKER: No further questions.
13 EXAMINATION BY
14 MR. FAILLACE:
15 MR. FAILLACE: Let the record show
16 -- I'm going to ask him some questions
17 without taking any breaks.
18 **Q. When you earlier said that they had**
19 **lowered your hours, earlier you said this was in**
20 **2006; is that correct?**
21 A. Yes.
22 **Q. Did you mean this year 2006 or last**
23 **year 2006?**
24 A. Now. 2007.
25 **Q. So your hours were only lowered in**

TSG Reporting - Worldwide 877-702-9580

Page 36

1 **J. Diroche**
2 A. I said I didn't remember, but it was
3 just before that.
4 **Q. So from 2001 all the way through 2006**
5 **you never were told not to work your lunch break?**
6 A. No. Never. To me that never even
7 existed.
8 **Q. Did you ever complain to anybody about**
9 **the fact that they weren't paying you for the**
10 **lunch break?**
11 A. Amongst ourselves, our co-workers.
12 **Q. Do you know if any of your co-workers**
13 **complained to someone?**
14 A. With regards to the lunch hour?
15 **Q. Yes.**
16 A. Yes, they complained.
17 MR. WALKER: Objection.
18 A. They were taking out a lunch hour and
19 we weren't taking it. We had no time to take a
20 lunch hour. We were working.
21 **Q. Did you ever complain to your manager**
22 **about the fact that he made you work a seventh day**
23 **and not pay you for it?**
24 MR. WALKER: Objection.
25 A. Yes, I complained to Raj.

TSG Reporting - Worldwide 877-702-9580

Page 35

1 **J. Diroche**
2 **February 2007; is that correct?**
3 A. Yes.
4 **Q. Not in 2006 as Mr. Walker lead you to**
5 **say?**
6 MR. WALKER: Objection.
7 A. No, it is now in 2007.
8 **Q. Why did you say 2006?**
9 A. I got confused with the question.
10 **Q. Did you work more than 10 hours a day?**
11 MR. WALKER: Objection.
12 A. Yes.
13 **Q. And did you receive a payment of**
14 **minimum wage for every day you worked more than 10**
15 **hours a day?**
16 A. They paid me minimum wage. Yes, that's
17 what they paid.
18 **Q. Did they give you an additional daily**
19 **pay, one hour of daily pay, an additional hour of**
20 **daily pay, because you worked more than 10 hours a**
21 **day? One additional pay?**
22 A. Never.
23 **Q. When they had you sign this document,**
24 **that Mr. Walker presented to you, was that around**
25 **the time that they lowered your hours?**

TSG Reporting - Worldwide 877-702-9580

Page 37

1 **J. Diroche**
2 **Q. What did Raj say?**
3 A. Same thing he always said. In the
4 matter of speaking that he always used. If you
5 don't want to work you can leave. When I
6 complained about the hour he said he was going to
7 pay but never did.
8 **Q. Just to clarify. You worked 12 hours a**
9 **day, six days a week, from 2001 all the way**
10 **through the end of 2006?**
11 MR. WALKER: Objection.
12 A. Can you repeat the question?
13 (Continued on next page to include
14 jurat.)

TSG Reporting - Worldwide 877-702-9580

EXHIBIT I

1
2 UNITED STATES DISTRICT COURT

3 SOUTHERN DISTRICT OF NEW YORK

4 -----
5 ANGELO PENA, ROLANDO ROJAS, JOSE DIRECHO,
6 and FRANKLIN SANTANA, individually and
as behalf of others similarly situated,

7 Plaintiffs,

8 vs. No. 07 CV 7013

9 SP PAYROLL, INC., NICHOLAS PARKING CORP.,
10 IVY PARKING CORP., BIENVENIDO, LLC,
11 CASTLE PARKING CORP., SAGE PARKING CORP.,
and SAM PODOLAK,

12 Defendants.
13 -----
14
15
16

17 DEPOSITION OF FRANKLIN SANTANA
18 New York, New York
19 Monday, November 12, 2007
20
21
22

23 Reported by:
24 Meredith Stoeckel
25 JOB NO. 14012-B

Page 14

1 F. Santana
 2 A. In this year, yes. I've worked up to
 3 seven days at the garage that I'm working at.
 4 When they need someone to park, the guys go to
 5 Santo Domingo, or something like that, he has
 6 asked me if I want to work seven days. I need the
 7 money, so I've done it.
 8 Q. Are you referring to the Bienvenido
 9 Garage?
 10 A. Yes.
 11 Q. Are you paid for those hours when you
 12 work seven days a week?
 13 MR. FAILLACE: Objection. You
 14 asked and he responded already.
 15 Q. You can answer the question.
 16 MR. FAILLACE: You can answer the
 17 question again.
 18 A. Yes. He gives me something once in a
 19 while.
 20 Q. Do you currently receive a paycheck
 21 from your employer?
 22 A. Of course I do.
 23 Q. Does your paycheck indicate the number
 24 of hours that you work?
 25 A. Yes.

TSG Reporting - Worldwide 877-702-9580

Page 15

1 F. Santana
 2 Q. And does it accurately indicate the
 3 number of hours that you work?
 4 A. Yes.
 5 Q. And are you paid for all those hours
 6 that are indicated on that paycheck?
 7 A. No. For the hours -- for the amount of
 8 hours that I work, they do not pay them all. For
 9 example, when I work seven days, he will give me a
 10 little something extra.
 11 Q. What do you mean he will give you a
 12 little something extra?
 13 A. 15, 20, 30, even \$40.
 14 Q. In cash or in check?
 15 A. Cash.
 16 Q. What is your current hourly rate of
 17 pay?
 18 A. 7.15 an hour. Which is the minimum.
 19 Q. And how many hours a week do you work?
 20 A. Now?
 21 Q. Yes.
 22 A. 48 hours.
 23 Q. And are you paid \$7.15 for each of
 24 those 48 hours each week?
 25 A. They pay me 40 hours at 7.15.

TSG Reporting - Worldwide 877-702-9580

Page 16

1 F. Santana
 2 Q. Are you paid for the other eight hours?
 3 A. Yes.
 4 Q. How much are you paid for the other
 5 eight hours?
 6 A. 10-something.
 7 Q. So you're paid time and a half for each
 8 of your hours above 40 hours a week?
 9 A. Yes. Less the seventh day, when I work
 10 seven days. That's what they pay me for six days
 11 that I work.
 12 Q. So are you paid for all the hours that
 13 you work on those six days?
 14 A. After the 10 hours that I'm supposed to
 15 get one hour, they don't pay that either. Never
 16 pay that.
 17 Q. But for those hours you are paid?
 18 A. That hour is supposed to be given to me
 19 by law, yes.
 20 Q. Is your current shift 10:30 p.m. to
 21 6:30 a.m.?
 22 A. 6:30 a.m., yes.
 23 Q. Six days a week?
 24 A. Six days a week, yes.
 25 Q. How often do you work a seventh day in

TSG Reporting - Worldwide 877-702-9580

Page 17

1 F. Santana
 2 a week?
 3 A. Many times.
 4 Q. How many times did you work seven days
 5 in a week this month?
 6 A. This month that we are in now?
 7 Q. Yes.
 8 A. This month, I have not worked seven
 9 days.
 10 Q. Did you work seven days in any week in
 11 October 2007?
 12 A. I worked seven days, yes. About two
 13 weeks -- for about two weeks. I don't remember
 14 when it was in October. Maybe it was one or two
 15 months ago.
 16 Q. How many times in the last year do you
 17 think you have worked seven days in a week?
 18 A. I don't remember right now.
 19 Q. Was it more than five?
 20 A. Seven days, of course. I covered for
 21 him for two weeks. If I wanted to work seven
 22 days, they told me to work seven days.
 23 Q. How many times did you work seven days
 24 in the last year approximately?
 25 A. Two weeks. In this year?

TSG Reporting - Worldwide 877-702-9580

Page 30

1 F. Santana
2 **Q. The second paragraph is in Spanish. Do**
3 **you understand that paragraph?**
4 A. I understand, yes.
5 **Q. Did there come a time when your hours**
6 **were reduced to 48 hours a week?**
7 MR. FAILLACE: Objection.
8 A. 48, yes.
9 **Q. When were your hours reduced to 48**
10 **hours a week?**
11 A. Now in 2007.
12 **Q. In what month of 2007?**
13 A. February. More or less.
14 **Q. Mr. Santana, you were present earlier**
15 **today for Mr. Direcho's deposition testimony;**
16 **isn't that correct?**
17 A. Yes.
18 **Q. And you heard Mr. Direcho testify that**
19 **his hours were reduced to 48 hours per week in**
20 **February 2007; isn't that correct?**
21 A. Yes, I did. But I don't need to say it
22 because he said it.
23 **Q. Did you sign the document before you,**
24 **that has been marked as Exhibit 1, before or after**
25 **February 2007?**

TSG Reporting - Worldwide 877-702-9580

Page 31

1 F. Santana
2 A. 2007, I don't remember. I think it was
3 before.
4 **Q. Did you ever take a meal break during**
5 **your regular shift?**
6 A. To lunch, no, never.
7 **Q. Lunch, dinner, or any other meal during**
8 **your shift?**
9 A. No, no. Not at all.
10 **Q. Did you ever eat any meal while you**
11 **were working on your shift?**
12 A. No.
13 **Q. Why not?**
14 A. I had no time. I worked alone in the
15 parking garage.
16 **Q. During your shift of 10:30 p.m. to 6:30**
17 **a.m., approximately how many cars enter or leave**
18 **the garage?**
19 A. Many. I don't know how many. The
20 ticket customers were many. The monthlies were
21 many. It's around 90 some odd cars which are
22 monthlies alone.
23 **Q. Approximately how many cars would enter**
24 **or leave per hour?**
25 A. Cars are always coming in and out.

TSG Reporting - Worldwide 877-702-9580

Page 32

1 F. Santana
2 Always coming in and out. Customers don't have
3 any specific hours.
4 **Q. Is there ever a time when you are**
5 **working when there aren't cars coming in or out of**
6 **the garage?**
7 A. If there are any moments -- I'm always
8 doing something in the garage. I'm always busy.
9 Whether it be organizing the parking garage,
10 monthlies coming in all the time. Even if there
11 aren't too many cars entering for tickets, daily
12 tickets, the monthlies are always coming in and
13 out. And the times that I have for a little
14 while, a break, I would go out and clean the
15 parking garage. I have to maintain it clean. If
16 not the supervisor would let me know about it, and
17 I don't like anyone to tell me anything about my
18 job.
19 **Q. Do you ever take any breaks during your**
20 **shift?**
21 A. A break without working?
22 **Q. Yes.**
23 A. No. There is always continuous work to
24 be done.
25 **Q. Do you ever make personal telephone**

TSG Reporting - Worldwide 877-702-9580

Page 33

1 F. Santana
2 **calls during your shift?**
3 A. Yes, I have called.
4 **Q. So during the times that you're making**
5 **a personal telephone call, you're not working,**
6 **correct?**
7 A. I called my wife in Santo Domingo once.
8 When my daughter was sick in Santo Domingo. She
9 had to be operated on.
10 **Q. How many times have you made personal**
11 **calls during your shift?**
12 A. Not many.
13 **Q. Approximately how many in a week?**
14 A. In one shift?
15 **Q. In one shift.**
16 A. Sometimes none. The majority of the
17 times none.
18 **Q. Approximately how many times in a week**
19 **would you make personal telephone calls?**
20 A. The customers are always calling up the
21 parking lot. Always telling me to get the car
22 ready for a certain hour. Or get it together for
23 the front. Everything by hour.
24 **Q. How many times in a week do you call**
25 **your wife during your shift?**

TSG Reporting - Worldwide 877-702-9580

EXHIBIT J

1
2
3 UNITED STATES DISTRICT COURT

4 SOUTHERN DISTRICT OF NEW YORK
5 -----

6 ANGELO PENA, ROLANDO ROJAS, JOSE DIRECHO,
7 and FRANKLIN SANTANA, individually and
8 on behalf of others similarly situated,

9 Plaintiffs,

10 vs. No. 07 CV 7013

11 SP PAYROLL, INC., NICHOLAS PARKING CORP.,
12 IVY PARKING, CORP., BIENVENIDO LLC,
13 CASTLE PARKING CORP., SAGE PARKING CORP.,
14 & SAM PODOLAK,
15 Defendants.
16 -----

17 DEPOSITION OF MIGUEL ALCANTARA
18 New York, New York
19 Tuesday, November 13, 2007
20
21
22

23 Reported by:
24 Meredith Stoeckel
25 JOB NO. 14013

Page 22

1 M. Alcantara
 2 A. No.
 3 Q. When you worked at the garages at 155
 4 or 145, did you work with any other employees on
 5 your shift?
 6 A. Sometimes one person worked.
 7 Sometimes two. At 145, only two people worked.
 8 Q. What about at 155, how many --
 9 A. I've even worked alone at 145. At 155
 10 two of us worked, and sometimes three.
 11 Q. How often would you work by yourself at
 12 145?
 13 A. I only worked there alone twice.
 14 Q. Have you ever paid another employee to
 15 work a shift for you?
 16 A. No.
 17 Q. Has an employee ever paid you for
 18 working a shift for them?
 19 A. No. Not even.
 20 Q. In this lawsuit, what is it that you're
 21 claiming you were not paid for?
 22 A. First of all, they haven't paid me a
 23 lunch hour. One hour for every day that I worked
 24 that they used to take away.
 25 Q. Are you claiming that you weren't paid

TSG Reporting - Worldwide 877-702-9580

Page 23

1 M. Alcantara
 2 for anything else other than your lunch hour?
 3 A. No, they did not pay me. And also
 4 according to law, after you work 10 hours they're
 5 supposed to pay one hour additional. They didn't
 6 pay that either. I always worked 12 hours.
 7 Q. Other than the lunch hour, and the
 8 extra hour after working 10 hours, are there any
 9 other hours of time that you're claiming you
 10 weren't paid for in this case?
 11 A. The extra hours worked after 40 hours a
 12 week. I only received 15 to \$20 to compensate for
 13 that -- cash. Besides the check. The other hours
 14 were paid regular.
 15 Q. Were you paid at least minimum wage for
 16 the first 40 hours that you worked each week?
 17 A. Minimum wage.
 18 Q. Did there come a time when your work
 19 schedule was reduced to 48 hours a week?
 20 A. I don't remember whether it was three
 21 or four days that I worked. Up to 48 hours.
 22 Q. Was there ever a time that your regular
 23 schedule for each week was decreased to 48 hours
 24 per week?
 25 A. That only happened for one or two weeks

TSG Reporting - Worldwide 877-702-9580

Page 24

1 M. Alcantara
 2 that they reduced my hours. I believe they
 3 reduced it because I complained about the hour.
 4 It was like a punishment.
 5 Q. When was it that your hours were
 6 reduced to 48 hours?
 7 A. That's when I was working. One time I
 8 called Pablo before I left. I called him to
 9 explain to him that I was -- I was claiming the
 10 hours that they owed me. And he told me he was
 11 going to speak to Sam about it, but that they were
 12 in no condition to pay those extra hours.
 13 Q. In what year did you make this
 14 complaint?
 15 A. I always complained about it, but it
 16 seems that at the end they punished me and lowered
 17 my hours.
 18 Q. Your hours were lowered to 48 hours for
 19 only two weeks -- one to two weeks?
 20 MR. FAILLACE: Objection. Already
 21 answered.
 22 A. One or two weeks, yes.
 23 Q. Did your hours increase after those two
 24 weeks to more than 48 hours a week?
 25 A. Then I started working regular, yes.

TSG Reporting - Worldwide 877-702-9580

Page 25

1 M. Alcantara
 2 Q. In what year was it that your hours --
 3 that for two weeks you worked 48 hours?
 4 A. 2006. That was like to placate me.
 5 Q. Immediately prior to your employment
 6 terminating in October of 2006, were you still
 7 working the seven p.m. to seven a.m. shift?
 8 A. Can you repeat the question?
 9 Q. I will rephrase. In October 2006 right
 10 before your employment terminated, what was your
 11 shift?
 12 A. Seven to seven.
 13 Q. Did you ever leave the work premises
 14 during a shift?
 15 A. I never left my job.
 16 Q. Did you ever take a break to eat a meal
 17 during your shift?
 18 A. Never took a break. I was always busy.
 19 Q. Did you ever see any of the other
 20 employees take a break during the shift?
 21 A. No. We were always taking care of the
 22 vehicles. Whether it be giving them in, or
 23 bringing them in -- receiving them, or giving them
 24 back. Cleaning the bathroom, garage area. It was
 25 always busy. The parking lot where we were

TSG Reporting - Worldwide 877-702-9580

Page 30

1 M. Alcantara
2 thing. He would tell me he was going to speak to
3 Sam. And nothing. I said to myself, what's going
4 on here? I'm working, working, working. And very
5 little money is being paid. And any time they
6 called me to cover someone, I would go. I could
7 have had a headache or anything and I would go. I
8 never told them no. I always covered wherever
9 they asked me to.

10 Q. How often would you cover a shift other
11 than your scheduled seven p.m. to seven a.m.
12 shift?

13 A. There are people that are always out
14 late, or they don't come to work. Irresponsible
15 people. Not everyone is the same. And the one
16 that doesn't stay out of work is the one that
17 always has to go. That's the one that always pays
18 the consequences.

19 Q. My question is not why did you work an
20 extra shift. My question is, how often did you
21 cover a shift for somebody else?

22 MR. FAILLACE: He already told you
23 the number of times.

24 A. That happened occasionally. That
25 wasn't all the time. That was on emergency cases.

TSG Reporting - Worldwide 877-702-9580

Page 31

1 M. Alcantara

2 Q. How many times in a year would that
3 happen?

4 A. I couldn't tell you how many times in
5 one year. I don't know.

6 Q. Other than working a seventh day, which
7 we have already talked about, or waiting for
8 someone else to arrive at your garage at the end
9 of your shift, were there any other times that you
10 would be working other than your regular seven
11 p.m. to seven a.m. shift?

12 A. Sometimes if I had to wait for my
13 relief for a couple of hours, Raj would call me
14 and ask me to wait until then.

15 Q. Did you keep your paycheck stubs?

16 A. Yes.

17 RQ MS. WHITE: Call for the production
18 of paycheck stubs for Mr. Alcantara.

19 MR. FAILLACE: As soon as we get
20 them done, we'll get them to you.

21 Q. Did you keep a record of how much cash
22 you received a week?

23 A. When you say "paychecks," you mean the
24 part of the check?

25 Q. Yes.

TSG Reporting - Worldwide 877-702-9580

Page 32

1 M. Alcantara

2 MS. WHITE: Can you read back my
3 last question?

4 (Record read.)

5 A. No.

6 Q. Did you declare the cash on your income
7 tax form?

8 A. No.

9 Q. Did there come a time when you stopped
10 receiving cash and you only received a paycheck?

11 A. Yes.

12 Q. When was that?

13 A. I don't remember exactly. I know it
14 was in 2006, but I don't remember exactly when.
15 I don't remember exactly.

16 Q. Was it early in 2006?

17 A. I'm not sure exactly.

18 Q. Do you recall was it in the first half
19 of the year of 2006?

20 MR. FAILLACE: Objection. He
21 already said he doesn't remember.

22 A. Something like that. I don't remember
23 exactly.

24 Q. Did there come a time when you started
25 being paid for your lunch hour?

TSG Reporting - Worldwide 877-702-9580

Page 33

1 M. Alcantara

2 A. Then they started paying the 60 hours
3 completely on the check.

4 Q. Was that approximately the same time as
5 you stopped receiving cash?

6 A. Yes.

7 Q. Did you receive time and a half for the
8 hours that you worked over 40 hours a week when
9 you stopped receiving cash?

10 A. Yes.

11 Q. So is it your testimony today that at
12 approximately the time when you stopped receiving
13 cash in 2006 from that point forward you were paid
14 for your lunch hour, and you were paid time and a
15 half for any overtime over 40 hours a week?

16 A. Lunch hour, no, because we weren't
17 taking lunch.

18 Q. But you were being paid for all hours
19 that you would work?

20 A. That's when they started paying us the
21 complete hours.

22 Q. Did you ever take any business
23 documents from any of the garages?

24 A. No.

25 Q. Why did you stop working at the garages

TSG Reporting - Worldwide 877-702-9580

EXHIBIT K

1
2
3 UNITED STATES DISTRICT COURT
4 SOUTHERN DISTRICT OF NEW YORK
5 -----
6

7 ANGELO PENA, ROLANDO ROJAS, JOSE DIROCHE,
8 and FRANKLIN SANTANA, individually and on
9 behalf of others similarly situated,
10

11 Plaintiffs,
12

13 vs. No. 07 CV 7013
14

15 SP PAYROLL, INC., NICHOLAS PARKING, CORP.,
16 IVY PARKING CORP., BIENVENIDO, LLC,
17 CASTLE PARKING CORP., SAGE PARKING CORP.,
18 and SAM PODOLAK,
19 Defendants.
20 -----
21

22 DEPOSITION OF LUIS LUNA
23 New York, New York
24 Friday, December 7, 2007
25

26 Reported by:
27 Meredith Stoeckel
28 JOB NO. 14367

Page 50

1 L. Luna
 2 that is in front of you?
 3 A. Yes.
 4 Q. Do you agree that the bottom has been
 5 Bates stamped P00417 and that the last page is
 6 Bates stamped P00457?
 7 A. Yes.
 8 Q. And what is the exhibit that has been
 9 marked Luna Exhibit 2?
 10 A. That is a copy of a check.
 11 Q. So these documents here that have been
 12 Bates stamped P00417 through P00457 are copies of
 13 your pay stubs; is that correct?
 14 A. Yes.
 15 Q. Mr. Luna, if you'll turn to the page
 16 that's marked at the bottom P00452. At the top of
 17 the page, do you agree it says "period ending
 18 October 3, 2004" at the very top, correct?
 19 A. Yes.
 20 Q. Under that, the pay date is "October 9,
 21 2004," correct?
 22 A. Yes.
 23 Q. And this is a check for 40 hours of pay
 24 at gross pay of \$206; is that correct?
 25 A. Yes.

TSG Reporting - Worldwide 877-702-9580

Page 51

1 L. Luna
 2 Q. If you turn to the following page that
 3 has been marked as P00453. Do you see at the top
 4 the period ending and the pay date is the same as
 5 the previous page?
 6 A. Yes.
 7 Q. Okay. So am I correct that for the pay
 8 date October 9, 2004 you received two checks, each
 9 check for a gross pay of \$206?
 10 A. Yes.
 11 Q. Does this refresh your recollection
 12 that at least one of these checks was for vacation
 13 pay?
 14 A. I'm not sure. I see that I received
 15 two checks.
 16 Q. Do you know why you received two
 17 checks?
 18 A. Vacations. They give you first one
 19 week and then they give you the other week.
 20 Q. So this is for two weeks of vacation
 21 pay?
 22 A. No. This is for two years.
 23 Q. But the amount of the check is for
 24 vacation pay -- for one week salary?
 25 A. Yes. One week vacation, yes.

TSG Reporting - Worldwide 877-702-9580

Page 52

1 L. Luna
 2 Q. Have you ever been paid for time that
 3 you didn't work other than these two weeks of
 4 vacation pay?
 5 A. No. If I wouldn't work, they wouldn't
 6 pay me.
 7 Q. Did you ever receive holiday pay?
 8 A. No.
 9 Q. Did you ever receive sick pay?
 10 A. No.
 11 Q. Did you ever receive a loan from the
 12 company in the amount of \$320?
 13 A. No.
 14 Q. Did you ever receive a loan from the
 15 company in any amount?
 16 MR. FAILLACE: I'm sorry. The
 17 interpreter said a payment from the
 18 company.
 19 Is that what you said, a payment?
 20 MS. WHITE: A loan.
 21 A. No. Loan, no.
 22 Q. Did you ever borrow money from the
 23 company?
 24 MR. FAILLACE: Objection. He
 25 answered.

TSG Reporting - Worldwide 877-702-9580

Page 53

1 L. Luna
 2 A. No.
 3 Q. How often did you get paid by the
 4 defendants?
 5 A. Weekly.
 6 Q. Did you always receive a paycheck for
 7 each pay period?
 8 A. Yes.
 9 Q. Did your paycheck indicate the number
 10 of hours that you worked?
 11 A. Yes.
 12 Q. Did it list your hourly rate of pay?
 13 A. Yes.
 14 Q. Did you receive at least minimum wage
 15 for the first 40 hours that you worked in any pay
 16 period?
 17 A. I think that the minimum wage was 5.15
 18 that they pay me.
 19 Q. Do you understand what overtime is?
 20 A. Yes. When you work more.
 21 Q. Do you understand that overtime is when
 22 you work more than 40 hours in a week?
 23 A. Yes.
 24 Q. Did your paycheck also list overtime
 25 hours?

TSG Reporting - Worldwide 877-702-9580

Page 54

1 L. Luna
 2 A. No.
 3 Q. Your paycheck never listed overtime
 4 hours?
 5 A. No, no.
 6 Q. If you look at the very first page of
 7 Exhibit 2 that's in front of you right here, see
 8 where it says "regular"? "Forty hours at 5.15."
 9 Do you see that?
 10 A. Yes.
 11 Q. And do you see under that it says
 12 overtime?
 13 A. But they didn't give us that on the
 14 check. They would give it to us cash.
 15 MR. FAILLACE: He didn't say that.
 16 THE INTERPRETER: No?
 17 MR. FAILLACE: No.
 18 Q. Could you repeat what you just said for
 19 the interpreter?
 20 A. That money was not given to us on the
 21 check. The overtime, no.
 22 Q. So right here where it says overtime --
 23 six hours. Do you see that on here? And it says
 24 that at a rate of \$7.25 per hour. Do you see
 25 that?

TSG Reporting - Worldwide 877-702-9580

Page 55

1 L. Luna
 2 A. Yes.
 3 Q. And you see across it says "for this
 4 period, \$46.35," correct? And that's in addition
 5 to \$206 of regular pay. Do you see that?
 6 A. Yes.
 7 Q. For a total gross pay of 252.35.
 8 A. Yes. But they would give that to us in
 9 cash.
 10 Q. Okay. Do you see where it says "net
 11 pay" on here, "\$218.79"? Please look at Exhibit
 12 2. Would you receive in that check the entire
 13 amount of net pay?
 14 A. I don't remember. But if it says so, I
 15 am sure that -- but I don't remember.
 16 Q. Let me rephrase my question. These
 17 paychecks that you have in front of you, the pay
 18 stubs, reflect that you were paid by check for at
 19 least some overtime hours; isn't that correct?
 20 A. Yes. They would give it to me on a
 21 check.
 22 Q. Okay. That's my question. Thank you.
 23 Do you understand what the term "time
 24 and a half" means?
 25 A. No.

TSG Reporting - Worldwide 877-702-9580

Page 56

1 L. Luna
 2 Q. Do you understand that the overtime
 3 rate of pay was one and a half times your regular
 4 rate of pay?
 5 A. The overtime, yes. Yes, that's time
 6 and a half.
 7 Q. Did you receive time and a half for
 8 your overtime hours?
 9 MR. FAILLACE: He was asking. He
 10 was asking.
 11 Q. He was asking? What were you asking?
 12 I'm sorry.
 13 A. No, I'm telling you that time and a
 14 half -- that's the hour for overtime.
 15 Q. Right. Do you agree that you were paid
 16 time and a half for the overtime hours that you
 17 worked?
 18 A. Yeah, the overtime.
 19 Q. You testified that you received cash in
 20 addition to your check, correct?
 21 A. When you work more.
 22 Q. Why did you receive -- explain to me
 23 why you received cash in addition to your check.
 24 A. Because it goes over the 40 hours of
 25 the five days of work.

TSG Reporting - Worldwide 877-702-9580

Page 57

1 L. Luna
 2 Q. So let me -- I'm trying to understand
 3 your testimony. Is your testimony that you
 4 received cash to compensate you for hours that you
 5 worked in addition to the hours that were
 6 compensated in your paycheck?
 7 A. Yes. Because that was when you went
 8 over the time. When you work seven days -- if you
 9 work more than seven days -- five days -- for
 10 instance, if you work seven days, they would give
 11 you 40 to \$45 for that.
 12 Q. Who gave you the cash?
 13 A. Raj.
 14 Q. Isn't it true that some of the cash
 15 that you received was to compensate you for a
 16 lunch hour or a meal break during your shift?
 17 A. No, we never got breaks. There were no
 18 breaks.
 19 Q. Did you keep a record of the amount of
 20 cash that you received?
 21 A. The check. No, no. Now that you're
 22 mentioning cash -- no, no. There was no receipt,
 23 nothing.
 24 Q. Did you make any note of the amount of
 25 cash that you received?

TSG Reporting - Worldwide 877-702-9580

Page 62

1 L. Luna
 2 understand very well what's going on.
 3 And you're putting words in his mouth to
 4 suit your own record. But go ahead. Do
 5 it. It's not going to make any
 6 difference. Do it.
 7 MS. WHITE: Are you finished,
 8 Mr. Faillace?
 9 MR. FAILLACE: I am finished. But
 10 let the record show you're taking
 11 advantage of my client's lack of
 12 education and lack of knowledge. Go
 13 ahead.
 14 MS. WHITE: Are you now finished,
 15 Mr. Faillace?
 16 MR. FAILLACE: Yes.
 17 MS. WHITE: I'd like to state on
 18 the record --
 19 MR. FAILLACE: Please repeat what
 20 I said in Spanish to my client.
 21 **Q. When I ask you, Mr. Luna, is it your**
 22 **testimony, if you disagree with what I'm saying,**
 23 **you understand that you should tell me; isn't that**
 24 **correct? In other words, if I mischaracterize**
 25 **your testimony, it is your obligation to let me**

TSG Reporting - Worldwide 877-702-9580

Page 64

1 L. Luna
 2 MS. WHITE: Mr. Faillace, I'm
 3 trying to get my response on the record.
 4 Please tell me when you're done.
 5 MR. FAILLACE: No. You're trying
 6 to get what you want on the record. Go
 7 ahead.
 8 MS. WHITE: Please tell me when
 9 you're done.
 10 MR. FAILLACE: Keep going.
 11 MS. WHITE: Are you done?
 12 MR. FAILLACE: But let the record
 13 show you're twisting his testimony again.
 14 Go ahead.
 15 MS. WHITE: Are you done?
 16 MR. FAILLACE: Go ahead.
 17 MS. WHITE: Let the record show --
 18 I'm responding now. Mr. Faillace, under
 19 the federal rules of evidence, you are
 20 permitted to object. You are not
 21 permitted to lead the witness. If you
 22 have an objection --
 23 MR. FAILLACE: I'm not leading the
 24 witness because the interpreter is not
 25 saying a word. Let the record show that

TSG Reporting - Worldwide 877-702-9580

Page 63

1 L. Luna
 2 know, correct?
 3 A. Yes.
 4 **Q. Okay. I'm just trying to understand.**
 5 **I'm not trying to mischaracterize your testimony.**
 6 **I'm trying to understand your testimony.**
 7 **With respect to the hours that you**
 8 **worked over 40 hours in a week, is it correct that**
 9 **you were paid overtime for those hours?**
 10 A. Yes, they paid the overtime.
 11 **Q. So is it your claim that what you**
 12 **weren't paid for is your lunch hour?**
 13 MR. FAILLACE: Objection. He
 14 already told you he didn't get paid for
 15 lunch, and for six or seven additional --
 16 when he worked a six or seven additional
 17 day. You're trying to twist his claim.
 18 He said it clearly. Let the record show
 19 that you're twisting his claim again.
 20 MS. WHITE: Mr. Faillace --
 21 MR. FAILLACE: No, he said, Lunch
 22 hour, and when I worked an extra day, I
 23 wasn't paid. He said it. Now, you're
 24 trying to twist it and say, No, you only
 25 said lunch.

TSG Reporting - Worldwide 877-702-9580

Page 65

1 L. Luna
 2 the interpreter is not saying a word of
 3 what I'm saying. So how can I lead my
 4 witness who doesn't speak a word of
 5 English? Excuse me. Let the record show
 6 you're trying to again make statements
 7 that are totally false. My client hasn't
 8 heard a word of what I said in Spanish.
 9 MS. WHITE: Are you directing the
 10 interpreter not to repeat your objection?
 11 MR. FAILLACE: No, I'm not. But
 12 she didn't say a word of what I was
 13 saying. Did she?
 14 MS. WHITE: Would you like her to?
 15 MR. FAILLACE: I mean, she can say
 16 it.
 17 MS. WHITE: Would you like her to?
 18 I'm asking if you want your objection
 19 interpreted to your witness?
 20 MR. FAILLACE: I have asked her to
 21 do it, but she didn't say it on that
 22 occasion.
 23 MS. WHITE: Mr. Faillace, we both
 24 can't talk at the same time because the
 25 court reporter can't get it down.

TSG Reporting - Worldwide 877-702-9580

EXHIBIT L

Michael Faillace & Associates, P.C.

Employment and Litigation Attorneys

110 East 59th Street, 32nd Floor
New York, New York 10022

Telephone: (212) 317-1200
Facsimile: (212) 317-1620

Faillace@employmentcompliance.com

July 12, 2008

VIA FIRST CLASS MAIL

Peter Arnold Walker
Seyfarth Shaw LLP
620 8th Avenue
New York, NY 10018

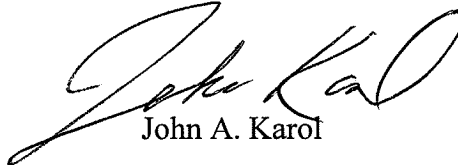
Re: Pena et al. v. SP Payroll, Inc., et al.
Index No. 1:07-cv-07013-RJH

Dear Mr. Walker:

Enclosed are motion papers for Plaintiffs' Motion to Amend and for Other Relief.

I note that Defendants' anticipated Motion for Summary Judgment is scheduled for submission on July 14, 2008. If you think you will need more time to file in light of these motion papers, please call me or Michael so we can discuss how to jointly apply for an enlargement of the schedule.

Very truly yours,



John A. Karol

Enclosures.